

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 37-96 are pending in this application. Claims 37, 48, 59, 70, 79 and 88 are independent. Claims 1-36 are hereby canceled without prejudice or disclaimer of subject matter. The previous Title is hereby replaced with a new Title.

Claims 37-96 are hereby added. Support for these new claims is provided throughout the Specification as originally filed. No new matter has been introduced by this amendment. Changes to claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

II. 35 U.S.C. § 112, FIRST PARAGRAPH, REJECTIONS

Previous claims 1-18 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Cancellation of claims 1-18 renders this rejection moot.

III. 35 U.S.C. § 112, SECOND PARAGRAPH, REJECTIONS

Previous claims 19-24, 27, 30, 33 and 36 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. The cancellation of claims 19-24, 27, 30, 33 and 36 renders this rejection moot.

IV. 35 U.S.C. § 103(a) REJECTIONS

Previous claims 1-36 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 6,314,451 to Landsman et al. (“Landsman”) in view of the publication, “What Makes People Click: Advertising on the Web” by Jim Sterne (“Sterne”).

Applicants respectfully submit that new claims 37-96 are patentable because neither Landsman nor Sterne, taken alone or in combination, teach or suggest the claimed invention.

New independent claim 37 recites, *inter alia*:

“An apparatus for determining a refund...
accessing means for accessing content data, some of the content data including advertising data;
transmission means for transmitting...selected content data to one or more user locations, in response to a request from the one or more user locations...; and
calculating means for calculating a refund quantity as a function of a number of transmissions of the selected content data and whether the selected content included advertising data.” (emphasis added)

New independent claims 48 and 59 are corresponding method and computer-readable medium claims, respectively, and are similar in scope.

As understood by Applicants, Landsman relates to a technique in which advertisements are downloaded, from an advertising server to a browser executing at a

client computer, in a manner transparent to a user situated at the browser, and subsequently displayed, by that browser on an interstitial basis, in response to a click-stream generated by the user to move from one web page to the next. An HTML advertising tag is embedded into a referring web page. This tag contains two components. One component downloads, from a distribution web server and to an extent necessary, and then persistently instantiates an agent at the client browser. The other component is a reference, in terms of a web address, of the advertising management system. The ad management system selects the given advertisement that is to be downloaded, rather than having that selection or its content being embedded in the web content page.

As understood by Applicants, the cited portion of Sterne merely states that web sites that attract the most viewers can justify their value proposition.

Applicants submit that nothing has been found in either Landsman or Sterne, taken alone or in combination, would teach or suggest calculating a refund quantity as a function of a number of transmissions of the selected content data and whether the selected content included advertising data, as recited in new claim 37.

New independent claims 48 and 59 are corresponding method and computer-readable medium claims, respectively, and are believed to be allowable for the same reasons.

New independent claim 70 recites, *inter alia*:

“A method for accessing content data comprising the steps of:
selecting content data, some of the content data including advertisement data;
receiving the selected content data;
generating a signal indicating a quantity of received content data that included advertisement data and a quantity of received content data that did not include advertisement data; and
transmitting the signal to a reception location.” (emphasis added)

New independent claims 79 and 88 are corresponding apparatus and computer-readable medium claims, respectively, and are similar in scope.

Applicants submit that nothing has been found in Landsman or Sterne, taken alone or in combination, that would teach or suggest generating a signal indicating a quantity of received content data that included advertisement data and a quantity of received content data that did not include advertisement data, as recited in claim 70. Therefore, Applicants submit that independent claims 70, 79 and 88 are allowable.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

CONCLUSION

While Applicants note that the Office Action indicates additional art, which was not used as a basis of rejection, Applicants do not represent that an exhaustive review of such additional art has been performed.

Statements appearing above in respect to the disclosures in the cited references represent the present opinions of the undersigned attorney and, in the event the Examiner disagrees with any of such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the references providing the basis for a contrary view.

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In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Respectfully submitted,
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